

**Senate Bill No. 1979**

\_\_\_\_\_

Passed the Senate      August 26, 1996

\_\_\_\_\_  
*Secretary of the Senate*

\_\_\_\_\_

Passed the Assembly      August 21, 1996

\_\_\_\_\_  
*Chief Clerk of the Assembly*

\_\_\_\_\_

This bill was received by the Governor this \_\_\_\_ day  
of \_\_\_\_\_, 1996, at \_\_\_\_ o'clock \_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*

└

## CHAPTER \_\_\_\_

An act to amend Section 25250.1 of the Health and Safety Code, and to amend Sections 42700, 48632, 48651, and 48656 of the Public Resources Code, relating to used oil, and making an appropriation therefor.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1979, O'Connell. Used oil recycling.

(1) Existing law requires used oil, as defined, to be managed as a hazardous waste until it has been shown to meet specified purity standards or is excluded from regulation as a hazardous waste because it is a recyclable material. For purposes of the provisions regulating the management of used oil, used oil does not include oil that contains more than 1,000 ppm halogens and oil is presumed to be a hazardous waste if it has been mixed with halogenated hazardous waste. A person may rebut the presumption by demonstrating that the used oil does not contain hazardous waste, including if the used oil does not contain more than 3000 ppm total halogens and meets other requirements. A violation of laws regulating used oil is a crime.

This bill would revise the definition of used oil to delete the requirement that the used oil does not contain more than 3000 ppm halogens, for purposes of that presumption, and would instead allow the presumption to be rebutted if it is demonstrated that the used oil that is the source of the total halogens solely meets those other requirements. The bill would thereby impose a state-mandated local program by revising the definition of a crime.

(2) Existing law, the California Integrated Waste Management Act of 1989, requires the Director of Transportation, upon consultation with the California Integrated Waste Management Board, to review and modify all bid specifications relating to the purchase of specified paving materials and backfill materials using certain recycled materials.



This bill would additionally include, as a recycled material, asphalt flux produced from the reprocessing or re-refining of used oil.

(3) Existing law, the California Oil Recycling Enhancement Act, requires every oil manufacturer, as defined, to pay a specified charge to the board. Those payments are deposited in the California Used Oil Recycling Fund, and the money in the fund is continuously appropriated to the board for specified purposes, including the issuance of grants or loans for research, testing, and demonstration projects to develop, among other things, uses for recycled or used oil.

This bill would instead authorize the board to issue those grants or loans for projects to develop uses for products resulting from the recycling of used oil. The bill would require at least 10%, but not more than 15%, of the balance remaining in the fund, after specified expenditures are made, to be expended for that purpose, thereby making an appropriation.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 25250.1 of the Health and Safety Code is amended to read:

25250.1. (a) As used in this article, the following terms have the following meaning:

(1) (A) “Used oil” means any oil that has been refined from crude oil, or any synthetic oil, that has been used, and, as a result of use or as a consequence of extended storage, or spillage, has been contaminated with physical or chemical impurities. Examples of used oil are spent lubricating fluids which have been removed from an engine crankcase, transmission, gearbox, or differential of



an automobile, bus, truck, vessel, plane, heavy equipment, or machinery powered by an internal combustion engine; industrial oils, including compressor, turbine, and bearing oil; hydraulic oil; metal-working oil; refrigeration oil; and railroad drainings.

(B) “Used oil” does not include any of the following:

(i) Oil which has a flashpoint below 100 degrees Fahrenheit or which has been mixed with hazardous waste, other than minimal amounts of vehicle fuel.

(ii) (I) Wastewater, the discharge of which is subject to regulation under either Section 307(b) or 402 of the Clean Water Act, including wastewaters at facilities which have eliminated the discharge of wastewater, contaminated with de minimis quantities of used oil.

(II) For purposes of this clause, “de minimis quantities of used oil” are small spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations, or small amounts of oil lost to the wastewater treatment system during washing or draining operations.

(III) This exception does not apply if the used oil is discarded as a result of abnormal manufacturing operations resulting in substantial leaks, spills, or other releases or to used oil recovered from wastewaters.

(iii) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.

(iv) Oil which contains polychlorinated biphenyls (PCBs) at a concentration of 5 ppm or greater.

(v) (I) Oil containing more than 1000 ppm total halogens, which shall be presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D (commencing with Section 261.30) of Part 261 of Title 40 of the Code of Federal Regulations.

(II) A person may rebut the presumption specified in subclause (I) by demonstrating that the used oil does not contain hazardous waste, including, but not limited to, in the manner specified in subclause (III).

(III) The presumption specified in subclause (I) is rebutted if it is demonstrated that the used oil that is the



source of total halogens at a concentration of more than 1000 ppm is solely either household waste, as defined in Section 261.4(b)(1) of Title 40 of the Code of Federal Regulations, or is collected from conditionally exempt small quantity generators, as defined in Section 261.5 of Title 40 of the Code of Federal Regulations. Nothing in this subclause shall be construed as authorizing any person to violate the prohibition specified in Section 25250.7.

(2) “Board” means the California Integrated Waste Management Board.

(3) (A) “Recycled oil” means any oil, produced from used oil, which has been prepared for reuse and which achieves minimum standards of purity, in liquid form, as established by the department.

(B) The following standards of purity are in effect for recycled oil unless the department, by regulation, establishes more stringent standards, and are the only allowed exceptions to the criteria adopted pursuant to Section 25141:

(i) Flashpoint: minimum standards set by the American Society for Testing and Materials for the recycled products. However, recycled oil to be burned for energy recovery shall have a minimum flashpoint of 100 degrees Fahrenheit.

(ii) Total lead: 50 mg/kg or less.

(iii) Total arsenic: 5 mg/kg or less.

(iv) Total chromium: 10 mg/kg or less.

(v) Total cadmium: 2 mg/kg or less.

(vi) Total halogens: 3000 mg/kg or less. However, recycled oil shall be demonstrated by testing to contain not more than 1000 mg/kg total halogens listed in Appendix VIII of Part 261 (commencing with Section 261.1) of Title 40 of the Code of Federal Regulations.

(vii) Total polychlorinated biphenyls (PCBs): 2 mg/kg or less.

(C) Compliance with the specifications of subparagraph (B) shall not be met by blending or diluting used oil with crude or virgin oil and shall be determined in accordance with the procedures for

identification and listing of hazardous waste adopted in regulations by the department. Persons authorized by the department to recycle oil shall maintain records of volumes and characteristics of incoming used oil and outgoing recycled oil and documentation concerning the recycling technology utilized to demonstrate to the satisfaction of the department or other enforcement agencies that the recycling has been achieved in compliance with this subdivision.

(D) This paragraph does not apply to oil that is to be disposed of or used in a manner constituting disposal.

(4) “Used oil recycling facility” means a facility which reprocesses or re-refines used oil.

(5) “Used oil storage facility” means a storage facility, as defined in subdivision (b) of Section 25123.3, which stores used oil.

(6) “Used oil transfer facility” means a transfer facility, as defined in subdivision (a) of Section 25123.3, that either stores used oil for periods greater than six days, or greater than 10 days for transfer facilities in areas zoned industrial by the local planning agency, or that transfers used oil from one container to another.

(b) (1) Unless otherwise specified, used oil which meets all of the following conditions is not subject to regulation by the department:

(A) The used oil meets the standards set forth in paragraph (3) of subdivision (a).

(B) The used oil is not hazardous pursuant to the criteria adopted pursuant to Section 25141 for constituents other than those listed in paragraph (3) of subdivision (a).

(C) The used oil is not mixed with any waste listed as a hazardous waste in Part 261 (commencing with Section 261.1) of Chapter 1 of Title 40 of the Code of Federal Regulations.

(2) Used oil recycling facilities that are the first to claim that the used oil meets the requirements specified in paragraph (1) shall maintain an operating log and copies of certification forms as specified in Section 25250.19. Any person who generates used oil, and who



claims that the used oil is exempt from regulation pursuant to this subdivision, shall notify the department, in writing, of that claim and shall comply with the testing and recordkeeping requirements of Section 25250.19 prior to its reuse. In any action to enforce this article, the burden is on the generator or recycling facility, whichever first claimed that the used oil meets the standards and criteria, and on the transporter or the user of the used oil, whichever has possession, to prove that the oil meets those standards and criteria.

SEC. 2. Section 42700 of the Public Resources Code is amended to read:

42700. The Director of Transportation, upon consultation with the board, shall review and modify all bid specifications relating to the purchase of paving materials, and base, subbase, and pervious backfill materials, using recycled materials. The recycled materials shall include, but are not limited to, recycled asphalt pavement, crushed concrete subbase, foundry slag, asphalt flux produced from the reprocessing or re-refining of used oil, and paving materials utilizing recycled materials, including, but not limited to, crumb rubber from automobile tires, ash, and glass and glassy aggregates. The specifications shall be based on standards developed by the Department of Transportation for recycled paving materials and for recycled base, subbase, and pervious backfill materials. The standards and specifications shall provide for the use of recycled materials and shall not reduce the quality standards for highway and road construction.

SEC. 3. Section 48632 of the Public Resources Code is amended to read:

48632. The board may issue grants or loans pursuant to Section 48631 for only the following purposes:

(a) To local governments for providing opportunities for used lubricating oil collection, which are in addition to those included in the local used oil collection programs adopted pursuant to Article 10 (commencing with Section 48690).



(b) To nonprofit entities for projects, which may include one or more of the following programs or activities:

(1) Establishing used lubricating oil collection centers.

(2) Providing containers and other materials and supplies that the public can utilize in an environmentally sound manner to store used lubricating oil for pickup or return to a used oil collection center.

(3) Obtaining equipment and establishing procedures to comply with federal, state, and local law regarding the collection, handling, and storage of used oil.

(c) Research, testing, and demonstration projects for collection technologies and to develop uses for products resulting from the recycling of used oil.

SEC. 4. Section 48651 of the Public Resources Code is amended to read:

48651. (a) The board shall pay a recycling incentive to every industrial generator, curbside collection program, and certified used oil collection center, for used lubricating oil collected from the public, or generated by the certified used oil collection center or the industrial generator, and transported by a used oil hauler to the facilities specified in Section 48623.

(b) The board shall pay a recycling incentive to an electric utility, as defined in Section 25108, for used lubricating oil generated and used by the electric utility for electrical generation if the electric utility's use of the used lubricating oil meets the requirements of subparagraph (C) of paragraph (2) of subdivision (d) of Section 25143.2 of the Health and Safety Code and the used oil is in compliance with the standards for recycled oil established in paragraph (3) of subdivision (a) of Section 25250.1 of the Health and Safety Code.

(c) A person or entity that generates used industrial oil or a used oil storage facility or a used oil transfer facility that accepts used oil shall cause that oil to be transported by a used oil hauler to a certified used oil recycling facility or an out-of-state recycling facility registered with the Environmental Protection Agency and operating in substantial compliance with applicable regulatory





standards of the state in which the recycling facility is located.

SEC. 5. Section 48656 of the Public Resources Code is amended to read:

48656. After all of the expenditures pursuant to Section 48653 have been made, notwithstanding paragraph (4) of subdivision (a) of Section 48653, the balance remaining in the fund shall be available to the board for expenditure solely for the implementation of subdivisions (b) and (c) of Section 48631 and Sections 48632 and 48660.5. The board shall not expend more than two hundred thousand dollars (\$200,000) to implement Section 48660.5 and at least 40 percent of the money remaining in the fund shall be expended for the purposes of subdivision (a) of Section 48632, at least 10 percent shall be expended for the purposes of subdivision (b) of Section 48632, at least 20 percent shall be expended for the purposes of subdivision (c) of Section 48631, and at least 10, but not more than 15, percent shall be expended for the purposes of subdivision (c) of Section 48632.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

Approved \_\_\_\_\_, 1996

\_\_\_\_\_  
*Governor*

